



Patterns for Settlement of Traditional Disputes and Provision of Values for Sure and Justice According to Catur Dresta in Bali Traditional Law

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Abstract. This study aims to identify the impact of customary disputes in the order of indigenous peoples and to resolve disputes that occur according to Catur Dresta in Balinese customary law. The impact of the Customary Dispute in the Order of the Indigenous Peoples is to become a disharmonious relationship and disturb the security and order in the area of the disputing community. If the impact is prolonged, it will lead to violent actions among community members and even among traditional villages. How to resolve disputes that occur according to Catur Dresta in Balinese Customary Law: 1) Settlement of disputes through the judiciary, where there is definitely interference from law enforcement, 2) Settlement through channels outside the court, this dispute resolution is carried out in stages. First of all, it is carried out by the parties without involving any party, which is known as a form of negotiation. If negotiations do not bring results, the parties can involve their respective families (big families), or ask for help from a respected family as the mediator, this is similar to mediation. If the two things above are not successful, the dispute resolution will be left to the traditional elders who can take action to reconcile the two parties.

Keywords: Traditional Disputes · Justice · Traditional Law

1 Introduction

Adat is a habit that is considered appropriate and has been institutionalized in society. In a broader sense, that custom can be called custom of behavior or manners in living together in society, because adat functions as a regulation of behavior. Adat is an ideal form of culture and can be divided more specifically into 4 levels, namely:

1. The level of cultural values.
2. Level of norms.
3. Legal Level and
4. Level of special rules.

Disputes or often called conflicts have existed since time immemorial until now, even in the future, these disputes will always exist [1]. So, disputes are not something special, but a normal thing and will definitely happen. Therefore, what really matters is not the dispute but how to resolve it so that the dispute does not burden the disputing parties, does not cause new legal problems or does not expand which in the end makes it more difficult for each party. Humans should not be controlled and governed by disputes, but instead humans should regulate and resolve disputes. As is known, the community has various ways to resolve the disputes they are facing. However, from the various ways, in general, dispute resolution can be classified into two types, namely:

1. Settlement of disputes through judicial institutions (litigation).
2. Through a settlement outside the Court (non-litigation).

The latter model of dispute resolution is now commonly called "Alternative Dispute Resolution" abbreviated as ADR which in Indonesian law is known as "Alternative Dispute Resolution" abbreviated as APS. By many parties, dispute resolution outside the judiciary is claimed to be more profitable for both parties compared to dispute resolution through litigation because it results in mutually beneficial settlements. Therefore, it is important to socialize this model to the wider community, including village officials, both customary and local government offices, who often face various disputes that occur within their territory, whether disputes between individuals, individuals against groups, or even groups against groups.

Traditional Village is an organization that has a social religious function. The religious or religious function of the traditional village is manifested by various ceremonial activities, whether carried out by village manners as a unit or individually according to needs. A series of religious ceremonies organized by village manners collectively, for example, is the yadnya ceremony at the Pura Desa, which is carried out routinely every piodalan or incidentally [2].

Adat stems from the patterned behavior of humans in society, therefore custom is a form of culture. What is called patterned behavior activity from humans is an activity of human behavior that is conscious, structured and based on ideas that conceptualize that behavior in an institutionalized manner. Given the close relationship between customs and human behavior, in the focus of Bali, it is necessary to mention customs in Bali with its Catur Dresta.

Customs in Bali. Customs in the Bali region are called dresta, sima, kerta which reflect something proper or orderly according to place, time and circumstances (village, kala, patra). So that the custom in Bali is flexible but nevertheless it has a very solid foundation known as Catur Dresta.

In the indigenous peoples of Bali who have been very much maintaining peace and harmony in accordance with the teachings of Hinduism, but do not deny that there will be conflicts or disputes between individuals and between groups that occur in a traditional village. The problem will become sharper because each party is not able to control itself through the legal norms that exist in the settlement. There have even been anarchic acts such as burning, cutting down trees and border disputes between traditional villages which have recently colored the lives of indigenous and tribal peoples in Bali. The emergence of border disputes is caused by various factors, such as economic factors,

maintaining prestige. Disputes that arise concerning the patching of village boundaries also involve the criminal realm [3].

Thomas Crum, in his book *The Magic of Conflict* suggests the characteristics of conflict, as follows:

1. Conflict is natural, neither positive nor negative; conflict is conflict.
2. Conflict is only a form of energy disturbance.
3. Nature uses conflict as the main motivator for change, such as creating beautiful beaches, cliffs, mountains, and pearls.
4. It doesn't matter if you have conflict in your life. But it's what you do with the conflict that makes the difference.
5. Conflict is not a match.
6. Losing and winning is the goal of many games, but not the goal of conflict.
7. Learning, growing, and working together are the goals of conflict resolution.
8. Conflict can be seen as a gift of energy, where both parties will lose and a new dance will be created.
9. Resolving conflicts rarely sees who is right. Resolving conflict is about recognizing and respecting differences [4].

In accordance with Article 21 of the Regional Regulation Number 4 of 2019 concerning Traditional Villages, it is stated that traditional villages have the task of realizing the success of traditional villages which include peace, prosperity, happiness, and peace of Sekala Niskala.

As stated above, based on PERDA Number 4 2019, it is customary village officers who are tasked with resolving disputes peacefully to be referred to as village peace judges.

Based on this background, the author will conduct a research entitled "Patterns of Customary Dispute Resolution and Giving Forms of Certainty and Justice Values according to Catur Dresta in Balinese Customary Law".

The problems raised to be analyzed and answered in this scientific paper are:

1. What is the impact of customary disputes in the order of indigenous peoples?
2. How to resolve disputes that occur according to Catur Dresta in Balinese customary law?

2 Discussion

Customs in the Bali area are called dresta, sima, kerta which reflect something proper or orderly according to place, time and circumstances (Village, Kala, Patra). So that the custom in Bali is flexible, but nevertheless it has a very solid foundation known as Catur Dresta, namely:

1. Dresta literature, propriety that comes from the teachings of the Hindu religion adopted by the Balinese people in general. This propriety makes the Balinese people as religious people who carry out religious teachings with full confidence. In such an

atmosphere, it can be said that the customs in Bali have a very close relationship with Hindu literature. The Hindu religious literatures include Menawa Dharma Sastra, Purwadigama, Adigama, Itihasa, Puranas and others.

2. Loka Dresta, the appropriateness of the results of the congregation in certain areas in Bali. For example, Dresta in Badung, Dresta in Tabanan, Dresta in Klungkung, Dresta in Karangasem, Dresta in Buleleng, and so on.
3. Purwa Dresta, a tradition that has been passed down from generation to generation based on historical considerations is still considered appropriate.
4. Dresta Village, according to the provisions agreed upon in a Traditional Village, it is stated in the Awig-awig, perarem or pasaurum village. In this case, each Traditional Village has a method (Village interview) so that it is very close to their sense of justice but has certainty as the agreed terms and is stated in the written Awig-awig, perarem, or village voter.

Bali is famous in the world as an area that has unique characteristics with friendly, peaceful people. This view is based on a judgment that Bali, in addition to having a beautiful natural panorama, has a pattern of traditional community life which is full of a safe and peaceful atmosphere, where all its citizens have a high sense of togetherness (solidarity), and in the fans lately In this case, it appears that what is admired by the outside world turns out to have black spots that tarnish the image of the Balinese people. There are symptoms that such traditional patterns of life are fading, with more and more cases of indigenous peoples being found in the form of fights between groups (banjar bans burial in village or banjar areas, destruction of individual houses by groups of people who are not clear, boundary disputes and so on). Some of these cases can be categorized as customary cases and some are not, depending on the nature of the case, but all of them give a bad image to the Balinese people and raise concern for everyone who has concerns about this.

If we look closely, the forms of conflict that arise in the (customary) community as stated above can be classified into four types, namely:

1. Conflict between individuals and groups of indigenous peoples, where they are residents (internal conflict).
2. Conflicts between individuals (as newcomers) and the indigenous groups where they are now (semi-internal conflicts).
3. Conflicts between groups and groups or between traditional villages and other traditional villages (external conflict).
4. Conflicts between customary villages regarding borders (external conflicts)

After being hit by the currents of globalization and the increasing development of the tourism industry which has created many job opportunities, migrants from outside Bali have flowed in looking for work in the Bali area. Thus the level of population density on the island of Bali is getting higher. The rapidity of tourism in Bali with access to high population density requires land for tourism facilities and infrastructure and residential areas.

In everyday life and often also in business activities, disputes (conflicts) often arise. Conflict occurs because of change. Change means that something will be different in

some way from what it is now. Conflict is a competitive behavior between two people or groups. Conflict occurs when two or more people compete to achieve the same goal or obtain limited resources. The emergence of conflict is a sign of a crisis in human relations, and the action that must be taken to resolve the conflict (dispute) is to make an effort to improve the relationship [4].

It is common knowledge that the life of Balinese people today is very complex, full of diversity of interests, and even full of competition with materialistic life orientations, power politics and other worldly gratifications. The complexity of people's lives today does not only occur in urban areas which are known to be very heterogeneous in all aspects, but also has penetrated to the lives of people in rural areas. The diversity of interests between individuals or groups often clashes with one another, causing disharmony that can trigger conflicts in society. Some of these conflicts develop into disputes, especially when the party who feels aggrieved has expressed his dissatisfaction or concern, either directly to the party considered to be the cause of the loss or to another party.

Conflicts that occur in the community in Bali, in recent years have shown a fairly high escalation. Open conflicts often erupt to the surface, both small scale to large scale in the form of physical clashes between groups, destruction and burning of residents' houses. The triggers are various, ranging from misunderstandings between residents and then widening and involving wider communities such as banjars and traditional villages. The issue of territorial boundaries, politics (local, national), youth emotions, personal vendettas and others are also problems that often trigger conflicts. Some of the conflicts that have occurred have been identified as customary conflicts or "claimed" as customary conflicts, because they involve indigenous peoples (warga banjar). Not infrequently, the conflict that occurs is a prolonged conflict, a continuation of conflicts that have occurred previously that have never been completely resolved.

How to Resolve Disputes that occur according to Catur Dresta in Balinese Customary Law.

As is known, the community has various ways to resolve the disputes they are facing. However, from these various ways, in general, dispute resolution can be classified into two types:

1. Settlement of disputes through judicial institutions (Litigation)
2. Through an out-of-court settlement (Non-Litigation)

Dispute resolution out of court in the past was usually carried out in stages. First of all, it is done by the parties without involving anyone. This model is now known as the negotiation form. If negotiations do not produce results, the parties then involve their respective families (big families), or ask for help from a respected family as the mediator. This is similar to mediation. If these two things do not also succeed in resolving the dispute they are facing in a family manner, only then will the matter be handed over to the traditional elders. The elder is the one who takes action to reconcile the two parties.

One way that can be taken to resolve disputes, other than through the judiciary, is through a method called Negotiation, Mediation, and Arbitration. These three main types of dispute resolution are alternatives to the court process, and are popularly referred to as Alternative Dispute Resolution (ADR) (Widnyana, I Made, 2007:11).

3 Conclusion

The impact of the Customary Dispute in the Order of the Indigenous Peoples is to become a disharmonious relationship and disturb the security and order in the area of the disputing community. If the impact is prolonged, it will lead to violent actions among community members and even among traditional villages.

How to resolve disputes that occur according to Catur Dresta in Balinese Customary Law:

- Settlement of disputes through the judiciary, where there is definitely interference from law enforcement.
- Settlement through channels outside the court, this dispute resolution is carried out in stages. First of all, it is carried out by the parties without involving any party, which is known as a form of negotiation. If negotiations do not bring results, the parties can involve their respective families (big families), or ask for help from a respected family as the mediator, this is similar to mediation. If the two things above are not successful, the dispute resolution will be left to the traditional elders who can take action to reconcile the two parties.

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